

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

David Frank Miranda  
1325 S. Haupt Avenue, #139  
Yuma, AZ 85364

Registered Nurse License No. 600687

Respondent

Case No. 2006-262

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on November 26, 2007.

IT IS SO ORDERED October 24, 2007.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 GLORIA A. BARRIOS, State Bar No. 94811  
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7

8 Attorneys for Complainant

9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11  
12 In the Matter of the Accusation Against:

13 DAVID FRANK MIRANDA  
1325 S. Haupt Avenue, #139  
14 Yuma, AZ 85364

15 Registered Nurse License No. RN 600687

16 Respondent.

Case No. 2006-262

OAH No. 2007020015

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:  
20

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
25 by Gloria A. Barrios, Supervising Deputy Attorney General.

26 2. Respondent David Frank Miranda (Respondent) is represented in this  
27 proceeding by attorney Shepard S. Kopp of Geragos and Geragos, whose address is 350 South  
28 Grand Avenue, Suite 3900, Los Angeles, CA 90071.

3. On or about June 18, 2002, the Board of Registered Nursing issued Registered Nurse License No. RN 600687 to David Frank Miranda (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2006-262 and will expire on December 31, 2007, unless renewed.

## JURISDICTION

4. Accusation No. 2006-262 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 6, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2006-262 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2006-262. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of the First and Fourth Cause of Action in Accusation No. 2006-262 and agrees that the charges and allegations in the Second and Third Cause of Action, if proven at a hearing, constitute cause for imposing discipline on his

1 Registered Nursing License.

2                     9.       Respondent agrees that his Registered Nurse License is subject to  
3 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
4 Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

16                    11.     The parties understand and agree that facsimile copies of this Stipulated  
17 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
18 force and effect as the originals.

19                     12.     In consideration of the foregoing admissions and stipulations, the parties  
20 agree that the Board may, without further notice or formal proceeding, issue and enter the  
21 following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent David Frank Miranda that his Registered Nurse License will be revoked. The revocation will be stayed and the Respondent placed on five (5) years probation on the following terms and conditions.

26                   **Severability Clause.** Each condition of probation contained herein is a separate  
27 and distinct condition. If any condition of this Order, or any application thereof, is declared  
28 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other

1 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
2 and enforceable to the fullest extent permitted by law.

3           1.       **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
4 A full and detailed account of any and all violations of law shall be reported by Respondent to  
5 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
6 compliance with this condition, Respondent shall submit completed fingerprint forms and  
7 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
8 as part of the licensure application process.

9           **Criminal Court Orders:** If Respondent is under criminal court orders, including  
10 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
11 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

12           2.       **Comply with the Board's Probation Program.** Respondent shall fully  
13 comply with the conditions of the Probation Program established by the Board and cooperate  
14 with representatives of the Board in its monitoring and investigation of the Respondent's  
15 compliance with the Board's Probation Program. Respondent shall inform the Board in writing  
16 within no more than 15 days of any address change and shall at all times maintain an active,  
17 current license status with the Board, including during any period of suspension.

18           Upon successful completion of probation, Respondent's license shall be fully  
19 restored.

20           3.       **Report in Person.** Respondent, during the period of probation, shall  
21 appear in person at interviews/meetings as directed by the Board or its designated  
22 representatives.

23           4.       **Residency, Practice, or Licensure Outside of State.** Periods of  
24 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
25 of this probation time period. Respondent's probation is tolled, if and when he resides outside of  
26 California. Respondent must provide written notice to the Board within 15 days of any change of  
27 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
28 returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

1                   7.       **Employment Approval and Reporting Requirements.** Respondent  
2 shall obtain prior approval from the Board before commencing or continuing any employment,  
3 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
4 performance evaluations and other employment related reports as a registered nurse upon request  
5 of the Board.

6                   Respondent shall provide a copy of this Decision to his employer and immediate  
7 supervisors prior to commencement of any nursing or other health care related employment.

8                   In addition to the above, Respondent shall notify the Board in writing within  
9 seventy-two (72) hours after he obtains any nursing or other health care related employment.  
10 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated  
11 or separated, regardless of cause, from any nursing, or other health care related employment with  
12 a full explanation of the circumstances surrounding the termination or separation.

13                  8.       **Supervision.** Respondent shall obtain prior approval from the Board  
14 regarding Respondent's level of supervision and/or collaboration before commencing or  
15 continuing any employment as a registered nurse, or education and training that includes patient  
16 care.

17                  Respondent shall practice only under the direct supervision of a registered nurse  
18 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
19 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
20 are approved.

21                  Respondent's level of supervision and/or collaboration may include, but is not  
22 limited to the following:

23                  (a)   Maximum - The individual providing supervision and/or collaboration is  
24 present in the patient care area or in any other work setting at all times.

25                  (b)   Moderate - The individual providing supervision and/or collaboration is in  
26 the patient care unit or in any other work setting at least half the hours Respondent works.

27                  (c)   Minimum - The individual providing supervision and/or collaboration has  
28 person-to-person communication with Respondent at least twice during each shift worked.

1 (d) Home Health Care - If Respondent is approved to work in the home health  
2 care setting, the individual providing supervision and/or collaboration shall have person-to-  
3 person communication with Respondent as required by the Board each work day. Respondent  
4 shall maintain telephone or other telecommunication contact with the individual providing  
5 supervision and/or collaboration as required by the Board during each work day. The individual  
6 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
7 site visits to patients' homes visited by Respondent with or without Respondent present.

8 9. **Employment Limitations.** Respondent shall not work for a nurse's  
9 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
10 traveling nurse, or for an in-house nursing pool.

11 Respondent shall not work for a licensed home health agency as a visiting nurse  
12 unless the registered nursing supervision and other protections for home visits have been  
13 approved by the Board. Respondent shall not work in any other registered nursing occupation  
14 where home visits are required.

15 Respondent shall not work in any health care setting as a supervisor of registered  
16 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
17 nurses and/or unlicensed assistive personnel on a case-by-case basis.

18 Respondent shall not work as a faculty member in an approved school of nursing  
19 or as an instructor in a Board approved continuing education program.

20 Respondent shall work only on a regularly assigned, identified and predetermined  
21 worksite(s) and shall not work in a float capacity.

22 If Respondent is working or intends to work in excess of 40 hours per week, the  
23 Board may request documentation to determine whether there should be restrictions on the hours  
24 of work.

25 10. **Complete a Nursing Courses.** Respondent, at his own expense, shall  
26 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
27 than six months prior to the end of his probationary term.

28 Respondent shall obtain prior approval from the Board before enrolling in the



1 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
2 completion for the above required course(s). The Board shall return the original documents to  
3 respondent after photocopying them for its record.

4           **11. Cost Recovery.** Respondent shall pay to the Board costs associated with  
5 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
6 amount of \$2,000.00. Respondent shall be permitted to pay these costs in a payment plan  
7 approved by the Board, with payments to be completed no later than three months prior to the  
8 end of the probation term.

9           If Respondent has not complied with this condition during the probationary term,  
10 and Respondent has presented sufficient documentation of his good faith efforts to comply with  
11 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
12 grant an extension of Respondent's probation period up to one year without further hearing in  
13 order to comply with this condition. During the one year extension, all original conditions of  
14 probation will apply.

15           **12. Violation of Probation.** If Respondent violates the conditions of his  
16 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
17 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
18 license.

19           If during the period of probation, an accusation or petition to revoke probation has  
20 been filed against Respondent's license or the Attorney General's Office has been requested to  
21 prepare an accusation or petition to revoke probation against Respondent's license, the  
22 probationary period shall automatically be extended and shall not expire until the accusation or  
23 petition has been acted upon by the Board.

24           **13. License Surrender.** During Respondent's term of probation, if he ceases  
25 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
26 probation, Respondent may surrender his license to the Board. The Board reserves the right to  
27 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
28 take any other action deemed appropriate and reasonable under the circumstances, without

1 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
2 will no longer be subject to the conditions of probation.

3               Surrender of Respondent's license shall be considered a disciplinary action and  
4 shall become a part of Respondent's license history with the Board. A registered nurse whose  
5 license has been surrendered may petition the Board for reinstatement no sooner than the  
6 following minimum periods from the effective date of the disciplinary decision:

7               (1) Two years for reinstatement of a license that was surrendered for any  
8 reason other than a mental or physical illness; or

9               (2) One year for a license surrendered for a mental or physical illness.

10              14. **Physical Examination.** Within 45 days of the effective date of this  
11 decision, respondent, at his expense, shall have a licensed physician, nurse practitioner, or  
12 physician assistant, who is approved by the Board before the assessment is performed, submit an  
13 assessment of the respondent's physical condition and capability to perform the duties of a  
14 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
15 medically determined, a recommended treatment program will be instituted and followed by  
16 respondent with the physician, nurse practitioner, or physician assistant providing written reports  
17 to the Board on forms provided by the Board.

18              If respondent is determined to be unable to practice safely as a registered nurse,  
19 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
20 immediately notify the Board and respondent by telephone, and the Board shall request that the  
21 Attorney General's Office prepare an accusation or petition to revoke probation. Respondent  
22 shall immediately cease practice and shall not resume practice until notified by the Board.  
23 During this period of suspension, respondent shall not engage in any practice for which a license  
24 issued by the Board is required until the Board has notified respondent that a medical  
25 determination permits respondent to resume practice. This period of suspension will not apply to  
26 the reduction of this probationary time period.

27              If the respondent fails to have the above assessment submitted to the Board within  
28 the 45-day requirement, respondent shall immediately cease practice and shall not resume

1 practice until notified by the Board. This period of suspension will not apply to the reduction of  
2 this probationary time period. The Board may waive or postpone this suspension if significant,  
3 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
4 by the respondent to obtain the assessment, and a specific date for compliance must be provided.  
5 Only one such waiver or extension will be permitted.

6                   **15. Participate in Treatment/Rehabilitation Program for Chemical**  
7 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary  
8 period or shall have successfully completed prior to commencement of probation a Board-  
9 approved treatment/rehabilitation program of at least six months duration. As required, reports  
10 shall be submitted by the program on forms provided by the Board. If respondent has not  
11 completed a Board-approved treatment/rehabilitation program prior to commencement of  
12 probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in  
13 a program. If a program is not successfully completed within the first nine months of probation,  
14 the Board shall consider respondent in violation of probation.

15                   Based on Board recommendation, each week respondent shall be required to  
16 attend at least one, but more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
17 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
18 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
19 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
20 such attendance to the Board during the entire period of probation. Respondent shall continue  
21 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
22 mental health examiner and/or other ongoing recovery groups.

23                   **16. Abstain from Use of Psychotropic Mood-altering Drugs.** Respondent  
24 shall completely abstain from the possession, injection or consumption by any route of all  
25 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a  
26 health care professional legally authorized to do so as part of documented medical treatment.  
27 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the  
28 prescribing health professional, a report identifying the medication, dosage, the date the

1 medication was prescribed, the respondent's prognosis, the date the medication will no longer be  
2 required, and the effect on the recovery plan, if appropriate.

3           Respondent shall identify for the Board a single physician, nurse practitioner or  
4 physician assistant who shall be aware of respondent's history of substance abuse and will  
5 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled  
6 substances or mood-altering drugs. The coordinating physician, nurse practitioner or physician  
7 assistant shall report to the Board on a quarterly basis respondent's compliance with this  
8 condition. If any substance considered addictive have been prescribed, the report shall identify a  
9 program for the time limited use of any such substances.

10           **17. Submit to Test and Samples.**           Respondent, at his expense, shall  
11 participate in a random, biological fluid testing or a drug screening program which the Board  
12 approves. The length of time and frequency will be subject to approval by the Board. The  
13 respondent is responsible for keeping the Board informed of respondent's current telephone  
14 number at all times. Respondent shall also ensure that messages may be left at the telephone  
15 number when he is not available and ensure that reports are submitted directly by the testing  
16 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
17 to the Board by the program and the respondent shall be considered in violation of probation.

18           In addition, respondent, at any time during the period of probation, shall fully  
19 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
20 tests and samples as the Board or its representatives may require for the detection of alcohol,  
21 narcotics, hypnotics, dangerous drugs, or other controlled substances.

22           If respondent has a positive drug screen for any substance not legally authorized  
23 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
24 Board files a petition to revoke probation or an accusation, the Board may suspend respondent  
25 from practice pending the final decision on the petition to revoke probation or the accusation.  
26 This period of suspension will not apply to the reduction of this probationary time period.

27           If respondent fails to participate in a random, biological fluid testing or drug  
28 screening program within the specified time frame, the respondent shall immediately cease

1 practice and shall not resume practice until notified by the Board. After taking into account  
2 documented evidence of mitigation, if the Board files a petition to revoke probation or an  
3 accusation, the Board may suspend respondent from practice pending the final decision on the  
4 petition to revoke probation or the accusation. This period of suspension will not apply to the  
5 reduction of this probationary time period.

6                   18.     **Mental Health Examination.**           The respondent shall, within 45 days  
7 of the effective date of this decision, have a mental health examination including psychological  
8 testing as appropriate to determine his capability to perform the duties of a registered nurse. The  
9 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
10 practitioner approved by the Board. The examining mental health practitioner will submit a  
11 written report of that assessment and recommendations to the Board. All costs are the  
12 responsibility of the respondent. Recommendations for treatment, therapy or counseling made as  
13 a result of the mental health examination will be instituted and followed by the respondent.

14                   If respondent is determined to be unable to practice safely as a registered nurse,  
15 the licensed mental health care practitioner making this determination shall immediately notify  
16 the Board and respondent by telephone, and the Board shall request that the Attorney General's  
17 Office prepare an accusation or petition to revoke probation. Respondent shall immediately  
18 cease practice and may not resume practice until notified by the Board. During this period of  
19 suspension, respondent shall not engage in any practice for which a license issued by the Board is  
20 required, until the Board has notified respondent that a mental health determination permits  
21 respondent to resume practice. This period of suspension will not apply to the reduction of this  
22 probationary period.

23                   If the respondent fails to have the above assessment submitted to the Board within  
24 the 45-day requirement, respondent shall immediately cease practice and shall not resume  
25 practice until notified by the Board. This period of suspension will not apply to the reduction of  
26 this probationary time period. The Board may waive or postpone this suspension only if  
27 significant, documented evidence of mitigation is provided. Such evidence must establish good  
28 faith efforts by the respondent to obtain the assessment, and a specific date for compliance must

1 be provided. Only one such waiver or extension may be permitted.

2 19. **Therapy or Counseling Program.** Respondent, at his expense, shall  
3 participate in an ongoing counseling program until such time as the Board releases him from this  
4 requirement and only upon the recommendation of the counselor. Written progress reports from  
5 the counselor will be required at various intervals.

6 20. **Reinstatement.** Respondent may petition the Board for reduction of  
7 probation pursuant to Business and Professions Code section 2760.1.

8

9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
11 have fully discussed it with my attorney, Shepard S. Kopp. I understand the stipulation and the  
12 effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and  
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
14 Decision and Order of the Board of Registered Nursing.

15 DATED: 8/7/07

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20 I concur with this stipulated settlement.

21

22 DATED: 8-7-07

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SHEPARD S. KOPP  
Attorney for Respondent

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28 ///

**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 8/7/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

ALFREDO TERRAZAS  
Senior Assistant Attorney General

  
GLORIA A. BARRIOS  
Supervising Deputy Attorney General

Attorneys for Complainant

Matter ID Number: LA2005601293  
MIR2.STIP.WPD

**Exhibit A**  
**Accusation No. 2006-262**



1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 GLORIA A. BARRIOS, State Bar No. 94811  
Supervising Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2540  
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation  
Against:

Case No. 2006-262

12 DAVID FRANK MIRANDA  
13 1325 S. Haupt Avenue #139  
14 Yuma, AZ 85364

**FIRST AMENDED  
ACCUSATION**

15 Registered Nurse License No. 600687

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.

22 2. On or about June 18, 2002, the Board of Registered Nursing issued  
23 Registered Nurse License No. 600687 to David Frank Miranda (Respondent). The Registered  
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on December 31, 2007, unless renewed.

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“(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

7. Section 2762 of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.”

8. Section 490 of the Code states:

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

9. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the

1 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
2 public health, safety, or welfare.

3 10. Section 11170 of the Health and Safety Code provides: "no person shall  
4 prescribe, administer, or furnish a controlled substance for himself."

5 11. Health and Safety Code section 11364, subdivision (a), states:

6 "It is unlawful to possess an opium pipe or any device, contrivance, instrument, or  
7 paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in  
8 subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in  
9 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or  
10 (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a  
11 controlled substance which is a narcotic drug classified in Schedule III, IV, or V."

12 12. Section 125.3 of the Code provides, in pertinent part, that the Board may  
13 request the administrative law judge to direct a licentiate found to have committed a violation or  
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
15 and enforcement of the case.

16 13. **CONTROLLED SUBSTANCE**

17 a. Methamphetamine is a Schedule II controlled substances as defined in  
18 Health and Safety Code section 11055(d)(2) and is categorized as a dangerous drug pursuant to  
19 Business and Professions Code section 4022 of the Code.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Conviction of a Substantially Related Crime)**

22 14. Respondent has subjected his license to disciplinary action under section  
23 2761, subdivision (f), in conjunction with section 490 as defined in California Code of  
24 Regulations, title 16, section 1444, on the grounds of unprofessional conduct in that Respondent  
25 was convicted of a substantially related crime. The circumstances are as follows:

26 A. On or about November 29, 1995, Respondent was convicted by the  
27 Court on a plea of nolo contendere to one count of violating Penal Code section 12021(g)(2), a  
28 misdemeanor, (possession of unlawful firearm) in the Superior Court of the State of California,

1 County of Los Angeles, Alhambra Courthouse, Case No. 5AL01858, entitled *The People of the*  
2 *State of California v. David Frank Miranda*.

3 B. The circumstances surrounding the conviction are that on or about  
4 October 29, 2005 Alhambra Police officers responded to a call that a male person was on top of a  
5 roof with a gun. When the police officers arrived at the location, Respondent jumped off the roof  
6 and starting running towards one of the officers. The officer were able to restrain Respondent.  
7 A search of Respondent's home revealed several guns and other weapons. Respondent was  
8 found to be in possession of drug paraphernalia. Respondent admitted to the police officer that  
9 he had smoked Methamphetamine.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Administer a Controlled Substance to Oneself)**

12 15. Respondent is subject to disciplinary action under section 2761,  
13 subdivision (d) as defined in section 2762, subdivision (b) on the grounds of unprofessional  
14 conduct for violating Health and Safety Code section 11170 in that Respondent administered a  
15 controlled substance, to wit: Methamphetamine, to himself as more fully set forth in paragraph  
16 14, above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Possession of Drug Paraphernalia)**

19 16. Respondent is subject to disciplinary action under section 2761,  
20 subdivision (d) on the grounds of unprofessional conduct for violating Health and Safety Code  
21 section 11364 in that on or about October 29, 2004, Respondent was in possession of a glass  
22 methamphetamine pipe, as more fully set forth in paragraph 14, above.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Out of State Discipline)**

25 17. Respondent is subject to disciplinary action under section 2761,  
26 subdivision (a) (4) on the grounds of unprofessional conduct in that respondent was denied a  
27 nursing license from the Arizona State Board of Nursing on or about January 18, 2006.

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1 **PRAYER**

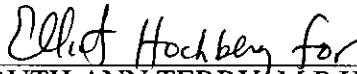
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License No. 600687, issued to  
5 David Frank Miranda David Frank Miranda.

6 2. Ordering David Frank Miranda to pay the Board of Registered Nursing the  
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 7/26/07

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12   
13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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